IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 5TH OCTOBER 2007 / 13TH ASWINA 1929

WP(C).No. 28834 of 2007(G)

PETITIONER:

DR.SAJJAD MOHAMMED.A.,
PROPRIETOR, SCANRON DIAGNOSTICS,
PUTHENVEETTIL BUILDING, OPP.TALUK HOSPITAL,
KANJIRAPPALLY.

BY ADV. SRI.VIJAYAN. K.U.
SRI.K.N.SREEKUMARAN

RESPONDENTS:

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1. SALES TAX INSPECTOR,
SALES TAX CHECK POST, WALAYAR, PALAKKAD.

2. SALES TAX OFFICER (ENQUIRY),
COMMERCIAL TAX CHECK POST,
WALAYAR, PALAKKAD.

3. STATE OF KERALA,
REPRESENTED BY THE SECRETARY (TAXES),
GOVT. SECRETARIAT, THIRUVANANTHAPURAM.

4. MANAGER,
NORTH MALABAR GRAMIN BANK,
KANJIRAPPALLY BRANCH,
KOTTAYAM DISTRICT.

BY GOVT. PLEADER, SRI.M.P.SREEKRISHNAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 05/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JP

ANTONY DOMINIC,J.

W.P (C) No. 28834 of 2007

Dated this the 5th October, 2007

J U D G M E N T

The prayer made in this writ petition is to quash Exhibit-P9 and to direct the 2nd respondent to release Exhibit-P4 bank guarantee. Exhibit-P9 is an order imposing penalty on the petitioner, for which, Section 15(2) of the Kerala Value Added Tax Act provides an appellate remedy. The petitioner has not succeeded in making out a case for by passing that statutory remedy and therefore has to pursue that remedy.

2. Pursuant to Exhibit-P3 judgment of this Court, petitioner has already furnished a bank guarantee and the apprehension is that in the meanwhile, same is likely to be invoked.

3. Taking into account the aforesaid submission made as above, I dispose of this writ petition directing that the petitioner shall file an appeal against Exhibit-P9 order and move the appellate authority for interim orders. In order to enable him to secure interim order from the appellate authority, it is directed that the Bank Guarantee furnished shall not be invoked for a period of 30 days from today.

(ANTONY DOMINIC, JUDGE)

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K.THANKAPPAN,J

CRL.A. NO.92 OF 1999

ORDER

25th May, 2007